

AMENDED IN SENATE AUGUST 14, 2002

AMENDED IN ASSEMBLY APRIL 16, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

## ASSEMBLY BILL

**No. 2041**

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**Introduced by Assembly Member Vargas**

February 15, 2002

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An act to amend Section 1714.21 of the Civil Code, and to amend, *repeal, and add* Section 1797.196 of the Health and Safety Code, relating to liability.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2041, as amended, Vargas. Liability: emergency care.

Existing law provides immunity from civil liability to any person who completes a basic cardiopulmonary resuscitation (CPR) or automatic external defibrillator (AED) course that complies with regulations adopted by the Emergency Medical Services (*EMS*) Authority (~~EMSA~~) and the standards of the American Heart Association or the American Red Cross, and who, in good faith, renders emergency care by the use of an AED at the scene of an emergency, without the expectation of receiving compensation for providing the emergency care.

This bill would revise these provisions by deleting the requirement that a person complete a basic CPR or AED course. The bill would further provide immunity to a person or entity that acquires an AED for emergency use, if in compliance with specified requirements.

The bill would *also* require that the supplier of an AED notify the local EMSA of the existence, location, and type of AED acquired, and

provide to the acquirer specified information governing the use and maintenance of the AED. *The bill would additionally require certain persons or entities that have acquired an AED to ensure employee training in CPR and AED use, as specified, and to follow particular emergency safety procedures. The bill would specify that the above requirements shall remain effective until January 1, 2008.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1714.21 of the Civil Code is amended  
2 to read:

3 1714.21. (a) For purposes of this section, the following  
4 definitions shall apply:

5 (1) “AED” or “defibrillator” means an automated or  
6 automatic external defibrillator.

7 (2) “CPR” means cardiopulmonary resuscitation.

8 (b) Any person who, in good faith and not for compensation,  
9 renders emergency care or treatment by the use of an AED at the  
10 scene of an emergency ~~shall not be~~ *is not* liable for any civil  
11 damages resulting from any acts or omissions in rendering the  
12 emergency care.

13 (c) A person or entity who provides CPR and AED training to  
14 a person who renders emergency care pursuant to subdivision (b)  
15 ~~shall not be~~ *is not* liable for any civil damages resulting from any  
16 acts or omissions of the person rendering the emergency care.

17 (d) A person or entity that acquires an AED for emergency use  
18 pursuant to this section ~~shall not be~~ *is not* liable for any civil  
19 damages resulting from any acts or omissions in the rendering of  
20 the emergency care *by use of an AED*, if that person or entity has  
21 complied with subdivision (b) of Section 1797.196 of the Health  
22 and Safety Code.

23 (e) A physician who is involved with the placement of an AED  
24 and any person or entity responsible for the site where an AED is  
25 located ~~shall not be~~ *is not* liable for any civil damages resulting  
26 from any acts or omissions of a person who renders emergency  
27 care pursuant to subdivision (b), if that physician, person, or entity  
28 has complied with all of the requirements of Section 1797.196 of



1 the Health and Safety Code that apply to that physician, person, or  
2 entity.

3 (f) The protections specified in this section ~~shall~~ *do* not apply  
4 in the case of personal injury or wrongful death that results from  
5 the gross negligence or willful or wanton misconduct of the person  
6 who renders emergency care or treatment by the use of an AED.

7 (g) Nothing in this section shall relieve a manufacturer,  
8 designer, developer, distributor, installer, or supplier of an AED or  
9 defibrillator of any liability under any applicable statute or rule of  
10 law.

11 SEC. 2. Section 1797.196 of the Health and Safety Code is  
12 amended to read:

13 1797.196. (a) For purposes of this section, “AED” or  
14 “defibrillator” means an automated or automatic external  
15 defibrillator.

16 (b) In order to ensure public safety, any person or entity that  
17 acquires an AED ~~shall~~ *is* not be liable for any civil damages  
18 resulting from any acts or omissions in the rendering of the  
19 emergency care under subdivision (b) of Section 1714.21 of the  
20 Civil Code, if that person or entity does all of the following:

21 (1) Complies with all regulations governing the placement of  
22 an AED.

23 (2) Ensures all of the following:

24 (A) That the ~~defibrillator~~ *AED* is maintained and regularly  
25 tested according to the operation and maintenance guidelines set  
26 forth by the manufacturer, the American Heart Association, and  
27 the American Red Cross, and according to any applicable rules and  
28 regulations set forth by the governmental authority under the  
29 federal Food and Drug Administration and any other applicable  
30 state and federal authority.

31 (B) That the AED is checked for readiness after each use and  
32 ~~in accordance with the manufacturer’s specifications~~ *at least once*  
33 *every 30 days if the AED has not been used in the preceding 30*  
34 *days*. Records of these checks shall be maintained.

35 (C) That any person who renders emergency care or treatment  
36 on a person in cardiac arrest by using an AED activates the  
37 emergency medical services system as soon as possible, and  
38 reports any use of the AED to the licensed physician and to the  
39 local EMS agency.

(D) For every AED unit acquired up to five units, no less than one employee per AED unit shall complete a training course in cardiopulmonary resuscitation and AED use that complies with the regulations adopted by the Emergency Medical Service Authority and the standards of the American Heart Association or the American Red Cross. If the person or entity acquires more than five AED units, no less than one additional person shall complete the training course for each additional AED unit acquired up to five additional units. Acquirers of AED units shall have trained employees trained available to respond to an emergency that may involve the use of an AED unit during normal operating hours.

(E) That there is a written plan that describes the procedures to be followed in the event of an emergency that may involve the use of an AED, to ensure compliance with the requirements of this section. The written plan shall include, but not be limited to, immediate notification of 911 and trained office personnel at the start of AED procedures.

(3) Building owners ensure that tenants annually receive a brochure, approved as to content and style by the American Heart Association or American Red Cross, which describes the proper use of an AED, and also ensure that similar information is posted next to any installed AED.

(4) No less than once a year, building owners will notify their tenants as to the location of AED units in the building.

(c) Any person or entity that supplies an AED shall do all of the following:

(1) Notify an agent of the local EMS agency of the existence, location, and type of AED acquired.

(2) Provide to the acquirer of the AED all information governing the use, installation, operation, and maintenance of the AED.

(d) A violation of this provision ~~shall not be~~ is not subject to penalties pursuant to Section 1798.206.

(e) The protections specified in this section do not apply in the case of personal injury or wrongful death that results from the gross negligence or willful or wanton misconduct of the person who renders emergency care or treatment by the use of an AED.

(f) Nothing in this section or Section 1714.21 shall be construed to require a building owner or a building manager to acquire and have installed an AED in any building.

1 (g) *This section shall remain in effect only until January 1,*  
2 *2008, and as of that date is repealed, unless a later enacted statute,*  
3 *that is enacted before January 1, 2008, deletes or extends that date.*

4 SEC. 3. *Section 1797.196 is added to the Health and Safety*  
5 *Code, to read:*

6 1797.196. (a) *For purposes of this section, “AED” or*  
7 *“defibrillator” means an automated or automatic external*  
8 *defibrillator.*

9 (b) *In order to ensure public safety, any person who acquires an*  
10 *AED shall do all of the following:*

11 (1) *Comply with all regulations governing the training, use,*  
12 *and placement of an AED.*

13 (2) *Notify an agent of the local EMS agency of the existence,*  
14 *location, and type of AED acquired.*

15 (3) *Ensure all of the following:*

16 (A) *That expected AED users complete a training course in*  
17 *cardiopulmonary resuscitation and AED use that complies with*  
18 *regulations adopted by the Emergency Medical Services (EMS)*  
19 *Authority and the standards of the American Heart Association or*  
20 *the American Red Cross.*

21 (B) *That the defibrillator is maintained and regularly tested*  
22 *according to the operation and maintenance guidelines set forth*  
23 *by the manufacturer, the American Heart Association, and the*  
24 *American Red Cross, and according to any applicable rules and*  
25 *regulations set forth by the governmental authority under the*  
26 *federal Food and Drug Administration and any other applicable*  
27 *state and federal authority.*

28 (C) *That the AED is checked for readiness after each use and*  
29 *at least once every 30 days if the AED has not been used in the*  
30 *preceding 30 days. Records of these periodic checks shall be*  
31 *maintained.*

32 (D) *That any person who renders emergency care or treatment*  
33 *on a person in cardiac arrest by using an AED activates the*  
34 *emergency medical services system as soon as possible, and*  
35 *reports any use of the AED to the licensed physician and to the*  
36 *local EMS agency.*

37 (E) *That there is involvement of a licensed physician in*  
38 *developing a program to ensure compliance with regulations and*  
39 *requirements for training, notification, and maintenance.*

- 1     (c) *A violation of this provision is not subject to penalties*
- 2     *pursuant to Section 1798.206.*
- 3     (d) *This section shall become operative on January 1, 2008.*

